

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

REID FRIEDMAN, Individually and on Behalf of All  
Others Similarly Situated,

Plaintiff,

v.

PENSON WORLDWIDE, INC., PHILIP A.  
PENDERGRAFT, and KEVIN W. MCALEER

Defendants.

Civil Action No. 3:11-cv-02098-O

**APPENDIX IN SUPPORT OF THE REVALONG CAPITAL  
LIMITED FUND'S MOTION FOR (1) APPOINTMENT AS LEAD PLAINTIFF  
AND (2) APPROVAL OF LEAD PLAINTIFF'S SELECTION OF LEAD COUNSEL**

Respectfully submitted,

**ROGER F. CLAXTON**

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*Attorneys for the Revalong Capital Limited  
Fund*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 24<sup>th</sup> day of October, 2011, I electronically filed the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the following attorneys of record who have consented in writing to accept this notice as service of this document by electronic means:

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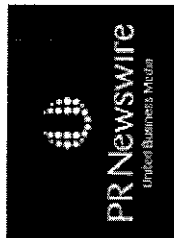
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/s/ Roger F. Claxton

# **EXHIBIT A**



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## INVESTOR ALERT: A Securities Class Action Has Been Filed on Behalf of Purchasers of Penson Worldwide, Inc. Common Stock During the Period February 10, 2011 through August 4, 2011



On October 14th, Margaritaville Las Vegas Reclaimed the Guinness World Record for The Largest Margarita Ever Made in Celebration of the Margaritaville Casino Opening at Flamingo

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NEW YORK, Aug. 24, 2011 /PRNewswire/ -- A class action suit was filed against Penson Worldwide, Inc. ("Penson" or the "Company") (Nasdaq: PNSN) on August 23, 2011 that alleges violations of the Securities Exchange Act of 1934 on behalf of purchasers of Penson common stock during the period February 10, 2011 through August 4, 2011, inclusive (the "Class").

The Complaint alleges that, throughout the Class Period, Defendants made materially false and misleading statements to investors by misrepresenting and failing to disclose that by at least the end of 2010 1) the Company had approximately \$96.97 million in receivables ("Nonaccrual Receivables") of which approximately \$43 million were collateralized by illiquid securities and therefore unlikely to be collected; 2) the Company's assets (Nonaccrual Receivables) were materially overstated and should have been written down at least by the end of 2010; 3) as a result, the Company's reported income and EBITDA (earnings before interest, taxes, depreciation, amortization and stock-based compensation, and excluding certain nonoperating expenses) were materially overstated; and 4) the Company's financial statements were not prepared in accordance with generally accepted accounting principles ("GAAP").

It is further alleged that starting on May 9, 2011, Penson began to reveal the truth about its financial condition. On May 9, 2011, Penson disclosed it held Nonaccrual Receivables of approximately \$97 million of which approximately \$43 million were collateralized by illiquid securities issued by a troubled horse track and real estate project in Texas. Between May 9 and May 11, 2011, Penson shares declined from a close on May 9, 2011 of \$5.45 per share to close at \$3.93 per share on May 11, 2011, a decline of approximately 28%, on heavy volume.

Then, on May 12, 2011, the Complaint alleges that Penson disclosed the resignation of Company director Thomas R. Johnson, stating "Based on Mr. Johnson's position as chief executive officer of Call Now, Inc., a holder of a portion of the Retama related collateral, both Mr. Johnson and the Company felt it appropriate for him to resign his position at this time." On May 12, 2011, Penson shares declined \$0.81 per share further, or approximately 21%, to close at \$3.12 per share, on heavy volume.

Finally, on August 4, 2011, it is alleged that after the close of trading, Penson disclosed that "the Company recorded a non-cash write down of \$43.0 million, equal to \$26.7 million or (\$0.94) per share net of tax, against \$96.6 million of nonaccrual receivables. The write down was recorded in conjunction with Penson's initiation of foreclosure proceedings on the majority of the collateral underlying these receivables, including, but not solely related to, certain assets associated with the Retama Development Corporation, and shares of Penson Worldwide stock." On August 5, 2011, Penson shares declined \$0.49 per share or approximately 19% to close at \$2.12 per share.

If you are a member of the proposed Class, you may move the court no later than 60 days from today to serve as a lead plaintiff for the Class. You need not seek to become a lead plaintiff in order to share in any possible recovery.

The case is pending in the United States District Court for the Northern District of Texas. Plaintiff seeks to recover damages on behalf of the Class and is represented by Kaplan Fox & Kilsheimer LLP and Schneider Wallace Cottrell Brayton Koneky LLP. For more information about the Complaint, or if you would like to obtain a copy of the Complaint, you may contact Kaplan Fox (www.kaplanfox.com) or Schneider Wallace (www.schneiderwallace.com).

If you have any questions about this Notice, the action, your rights, or your interests, please contact:

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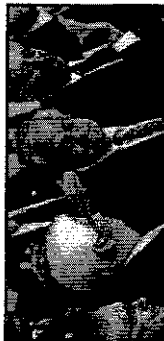
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**FEATURED CASES****Bank of America Securities Litigation**Kaplan Fox is court appointed co-lead counsel in the case against Bank of America. The State Teachers Retirement System of Ohio, The Ohio Public Employees Retirement System, The Teacher Retirement System of Texas, Stichting Pensioenfonds Zorg en Welzijn, represented by PGGM Vermogensbeheer B.V., and Flårde AP-Fonden are Court-appointed Co-Lead Plaintiffs...  
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# **EXHIBIT B**



**PLAINTIFF CERTIFICATION  
PURSUANT TO 15 U.S.C. § 78u-4(a)(2)(A)**

1. I, Manuel De Diego Prato, an authorized representative of Revalong Capital Limited ("Fund"), hereby certify that I have reviewed a draft complaint against Penson Worldwide, Inc. ("Penson") and others. I further certify that I have authorized counsel to file a motion for the Fund to be appointed lead plaintiff.

2. The Fund selects Faruqi & Faruqi, LLP and any firm with which it affiliates for the purpose of prosecuting this action as my counsel for purposes of prosecuting my claims against Penson and others.

3. The Fund did not purchase any security or securities that are the subject of this action at the direction of my counsel or to participate in any private action arising under the federal securities laws.

4. Should the Court appoint the Fund, the Fund is willing to serve as a class representative or lead plaintiff on behalf of the class, including guiding my attorneys in the prosecution of this action, overseeing the litigation, including any discussions of settlement, providing answers to discovery requests at the direction of my counsel, and providing deposition testimony and testimony at trial, if necessary.

5. To the best of my knowledge, the following represents all of the Fund's transactions in Penson securities during the applicable Class Period:

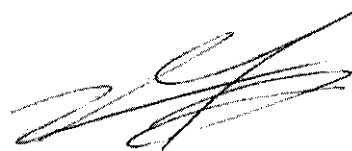
<b>TRANSACTION</b> (Purchase or Sale)	<b>TRADE DATE</b>	<b>PRICE PER SECURITIES/SHARE</b>	<b>QUANTITY</b>
Purchase	February 11, 2011	\$5.30	10,085
Purchase	June 21, 2011	\$3.65	1,500
Purchase	June 22, 2011	\$3.59	6,825
Purchase	July 1, 2011	\$3.70	1,965
Purchase	July 5, 2011	\$3.70	6,035
Purchase	July 6, 2011	\$3.63	4,000
Purchase	July 13, 2011	\$3.48	2,800
Purchase	July 19, 2011	\$3.41	3,200
Purchase	July 20, 2011	\$3.36	3,300
Purchase	July 21, 2011	\$3.226	5,200
Purchase	August 2, 2011	\$3.18	3,140

6. The Fund has neither served, nor sought to serve, as a representative party on behalf of a class in any action under federal securities laws filed during the three-year period preceding the date of this Certification.

7. I understand that the Fund is only entitled to its pro rata share of any recovery for the class, except as approved by the Court. We shall not seek nor will we accept any payment beyond that approved by the Court in return for my service as class representative.

8. I declare, under penalty of perjury under the laws of the United States of America, that the foregoing information is correct to the best of my knowledge.

Signed this 17th day of October, 2011



Manuel De Diego Prato

# **EXHIBIT C**

Penson Worldwide Inc. (NASDAQ: PNSN)

Class Period: 02/10/11 - 8/4/11

Losses are calculated using the average price of \$1.7919 per share (8/5/11 - 10/21/11)

	<u>Date</u>	<u>Buy</u>	<u>Sell</u>	<u>Price</u>	<u>Cost</u>
	02/11/11	10,085		\$ 5.30	\$ 53,450.50
	06/21/11	1,500		\$ 3.65	\$ 5,475.00
	06/22/11	6,825		\$ 3.59	\$ 24,501.75
	07/01/11	1,965		\$ 3.70	\$ 7,270.50
	07/05/11	6,035		\$ 3.70	\$ 22,329.50
	07/06/11	4,000		\$ 3.63	\$ 14,520.00
	07/13/11	2,800		\$ 3.48	\$ 9,744.00
	07/19/11	3,200		\$ 3.41	\$ 10,912.00
	07/20/11	3,300		\$ 3.36	\$ 11,088.00
	07/21/11	5,200		\$ 3.23	\$ 16,796.00
	08/02/11	3,140		\$ 3.18	\$ 9,985.20
Shares purchased		48,050	0		\$ 186,072.45
Expenditures		\$ 186,072.45			\$ -
Shares sold		0			\$ 86,100.80
Proceeds		\$ -			\$ 99,971.66
Shares held		48,050			
Value		\$ 86,100.80			

Shares purchased	Expenditures on shares purchased
Expenditures	- Proceeds from shares purchased and sold
Shares sold	- Value of shares purchased and held
Proceeds	
Shares held	
Value	

# **EXHIBIT D**

Penson Worldwide Inc. (NASDAQ: PNSN)

Class Period: 02/10/11 - 8/4/11

Losses are calculated using the average price of \$1.7919 per share (8/5/11 - 10/21/11)

	<u>Date</u>	<u>Buy</u>	<u>Sell</u>	<u>Price</u>	<u>Cost</u>
	02/11/11	10,085		\$ 5.30	\$ 53,450.50
	06/21/11	1,500		\$ 3.65	\$ 5,475.00
	06/22/11	6,825		\$ 3.59	\$ 24,501.75
	07/01/11	1,965		\$ 3.70	\$ 7,270.50
	07/05/11	6,035		\$ 3.70	\$ 22,329.50
	07/06/11	4,000		\$ 3.63	\$ 14,520.00
	07/13/11	2,800		\$ 3.48	\$ 9,744.00
	07/19/11	3,200		\$ 3.41	\$ 10,912.00
	07/20/11	3,300		\$ 3.36	\$ 11,088.00
	07/21/11	5,200		\$ 3.23	\$ 16,796.00
	08/02/11	3,140		\$ 3.18	\$ 9,985.20
Shares purchased		48,050	0		\$ 186,072.45
Expenditures		\$ 186,072.45			\$ -
Shares sold		0			\$ 86,100.80
Proceeds		\$ -			\$ 99,971.66
Shares held		48,050			
Value		\$ 86,100.80			

Expenditures on shares purchased	
Proceeds from shares purchased and sold	-
Value of shares purchased and held	-

# **EXHIBIT E**



# FARUQI & FARUQI, LLP

Faruqi & Faruqi, LLP focuses on complex civil litigation, including securities, antitrust, wage and hour, and consumer class actions as well as shareholder derivative and merger and transactional litigation. The firm is headquartered in New York, and maintains offices in California, Delaware, Florida and Pennsylvania.

Since its founding in 1995, Faruqi & Faruqi, LLP has served as lead or co-lead counsel in numerous high-profile cases which ultimately provided significant recoveries to investors, consumers and employees.

## PRACTICE AREAS

### ANTITRUST LITIGATION

The attorneys at Faruqi & Faruqi, LLP represent direct purchasers, third-party payors, end payors, and competitors in a variety of individual and class action antitrust cases brought under Sections 1 and 2 of the Sherman Act.

Current and past matters include the following: *In re Aftermarket Filters Antitrust Litigation*, No. 08-4883 (N.D. Ill.) (representing a proposed class of direct purchasers of filters challenging conspiracy to fix prices, in violation of § 1 of the Sherman Act); *AvMed, Inc. v. Cephalon, Inc. (In re Provigil Antitrust Litigation)*, No. 07-3793 (E.D. Pa.) (representing a third-party payor of drug Provigil, alleging anticompetitive market allocation agreements that delayed generic competition, in violation of § 1 of the Sherman Act); *Babyage.com, Inc., et al. v. Toys "R" Us, Inc.*, No. 05-6792 (E.D. Pa.) (representing two retailers challenging dominant retailer and co-conspirator suppliers' anticompetitive scheme to impose and enforce resale price maintenance in violation of §§ 1 and 2 of the Sherman Act and state law); *In re Blood Reagents Antitrust Litigation*, No. 09-2081 (E.D. Pa.) (representing a proposed class of direct purchasers of blood reagent products, challenging conspiracy to fix prices, in violation of § 1 of the Sherman Act); *In re Chocolate Confectionary Antitrust Litigation*, No. 08-MD-1935 (M.D. Pa.) (representing a proposed class of direct purchasers of chocolate products challenging conspiracy to fix prices, in violation of § 1 of the Sherman Act); *Connecticut Children's Medical Center v. Lundbeck, Inc.*, No. 09-1652 (D. Minn.) (representing a class of direct purchasers of drugs Indocin and NeoProfen alleging monopolization under §§ 1 and 2 of the Sherman Act and § 7 of the Clayton Act); *In re Delta/AirTran Baggage Fee Antitrust Litigation*, No. 09-MD-2089 (N.D. Ga.) (representing a proposed class of direct purchasers challenging conspiracy to fix baggage fees by two major airlines, in violation of § 1 of the Sherman Act); *In re Endosurgical Products Direct Purchaser Antitrust Litigation*, No. 05-CV-8809 (C.D. Cal.) (represented a proposed class of direct purchasers of endosurgical products manufactured by Johnson and Johnson, challenging bundled pricing and exclusionary contracting scheme that violated §§ 1 and 2 of the Sherman Act) (settled); *In re Hypodermic Products Antitrust Litigation*, No. 05-1602 (D.N.J.) (representing a proposed class of direct purchasers challenging

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## FARUQI & FARUQI, LLP

monopolistic conduct by Becton Dickinson and Company in the sale of hypodermic syringes and related products) (proposed settlement for \$45M); *Jimico Enterprises, Inc., et al. v. Lehigh Gas Corp.*, No. 07-578 (N.D.N.Y.) (representing several terminated gas stations alleging violations of the Petroleum Marketing Practices Act); *In re Pennsylvania Title Ins. Antitrust Litig.*, No. 08cv1202 (E.D. Pa.) (Faruqi & Faruqi partner Peter Kohn is co-lead counsel in this pending action on behalf of direct purchasers of title insurance alleging illegal cartel pricing under § 1 of the Sherman Act); *In re Ready-Mixed Concrete Antitrust Litigation*, No. 05-CV-979 (S.D. Ind.) (representing a proposed class of direct purchasers of ready-mixed concrete challenging conspiracy to fix prices, in violation of § 1 of the Sherman Act) (partially settled in excess of \$40 million); *In re Tricor Antitrust Litigation*, No. 05-360 (D. Del.) (represented PacifiCare, a large third-party payor challenging the conduct of Abbott Laboratories and Laboratories Fournier in suppressing generic drug competition, in violation of §§ 1 and 2 of the Sherman Act) (settled for undisclosed amount); *In re Wellbutrin XL Antitrust Litigation*, No. 08-2431 (E.D. Pa.) (representing a pharmaceutical wholesaler and proposed class of direct purchasers challenging the conduct of SmithKline Beecham Corp. and Biovail Laboratories in delaying generic drug competition, in violation of §§ 1 and 2 of the Sherman Act).

### CONSUMER LITIGATION

Attorneys at Faruqi & Faruqi, LLP have represented consumers in a variety of state and federal complex class action cases. Recently, in *Thomas v. Global Vision Products*, Case No. RG-03091195, California Superior Ct., Alameda Cty.), Faruqi & Faruqi, LLP served as co-lead counsel in a consumer class action lawsuit against Global Vision Products, Inc., the manufacturer of the Avacor hair restoration product and its officers, directors and spokespersons, in connection with the false and misleading advertising claims regarding the Avacor product. Though the company had declared bankruptcy in 2007, Faruqi & Faruqi, LLP, along with its co-counsel, successfully prosecuted two trials to obtain relief for the class of Avacor purchasers. In January 2008, a jury in the first trial returned a verdict of almost \$37 million against two of the creators of the product. In November 2009, another jury awarded plaintiff and the class more than \$50 million in a separate trial against two other company directors and officers. This jury award represented the largest consumer class action jury award in California in 2009 (according to VerdictSearch, a legal trade publication).

In *In re: HP Power-Plug Litigation*, Case No. 06-1221 (N.D. Cal.), Faruqi & Faruqi, LLP was able to obtain full relief to class members with a settlement of a cash payment up to \$650.00, or in the alternative, a repair free-of-charge and free of shipping and handling costs and new limited warranty, to compensate class members for defective laptops manufactured by defendant HP. Also, in *Delire v. Hewlett-Packard Co.*, C.A. No. 3232-02 (N.J. Super. Ct. 2002), Faruqi & Faruqi, LLP obtained full relief for a class of approximately 170,000 members who purchased HP dvd-100i dvd-writers ("HP 100i") after HP

## FARUQI & FARUQI, LLP

misrepresented the write-once ("DVD+R") capabilities of the HP 100i; including, the compatibility of DVD+RW disks written by HP 100i with DVD players and other optical storage devices. HP agreed to replace the defective HP 100i with its more current, second generation DVD writer, the HP 200i, for affected class members and refund the \$99 it had charged some consumers to upgrade from the HP 100i to the HP 200i prior to the settlement.

Other consumer class actions include *In re Wireless Telephone 911 Class Litigation*, No. 03-CV-2597 (N.D. Ill.) (consumer case alleging industry non-compliance with FCC rules) and *Potter v. Sharper Image Corp.*, No. CGC-03426350 (Cal. Sup. Ct.) (asserting class claims alleging unfair and deceptive trade practices).

### SECURITIES LITIGATION

Since its inception over a decade ago, Faruqi & Faruqi, LLP has devoted a substantial portion of its practice to class action securities fraud litigation. In *In re PurchasePro Inc. Securities Litig.*, Master File No. CV-S-01-0483-JLQ (D. Nev. 2001), as co-lead counsel for the class, Faruqi & Faruqi, LLP secured a \$24.2 million settlement in a securities fraud litigation. As noted by Senior Judge Justin L. Quackenbush in approving the settlement, **"I feel that counsel for plaintiffs evidenced that they were and are skilled in the field of securities litigation."** Recently, Faruqi & Faruqi, LLP was appointed sole lead counsel for the class in *Anghel v. Ebix, Inc. et al.*, C.A. No. 1:11-cv-02400-RWS in the United States District Court for the Northern District of Georgia, Atlanta Division.

Other past achievements include; *In re Olsten Corp. Secs. Litig.*, C.A. No. 97-CV-5056 (E.D.N.Y.) (recovered \$25 million dollars for class members), *In re Mitcham Indus, Inc. Secs. Litig.*, Master File No. H-98-1244 (S.D. Tex. 1998) (recovered \$3 million dollars on behalf of class members despite the fact that corporate defendant was on the verge of declaring bankruptcy), and *Ruskin v. TIG Holdings, Inc.*, C.A. No. 98 Civ. 1068 (S.D.N.Y. 1998) (recovered \$3 million dollars on behalf of class members).

### SHAREHOLDER DERIVATIVE LITIGATION

Faruqi & Faruqi, LLP has extensive experience litigating shareholder derivative actions on behalf of corporate entities. This litigation is often necessary when the corporation has been injured, such as the wrongdoing by certain corporate officers in connection with stock-option backdating programs. A shareholder has the right to commence a derivative action when the company's directors are unwilling or unable, to pursue claims against the wrongdoers.

Faruqi & Faruqi, LLP has achieved significant corporate governance changes in connection with the successful resolution of derivative actions, in addition to any monetary recovery that may inure directly to the benefit of the company, and indirectly to its shareholders through an improved market price and market perception.

## FARUQI & FARUQI, LLP

In *In re UnitedHealth Group Incorporated Derivative Litig.*, Case No. 27 CV 06-8065 (Minn. 4th Judicial Dist. 2009) Faruqi & Faruqi, LLP, as co-lead counsel for plaintiffs, obtained a recovery of more than \$930 million for the benefit of the Company and corporate governance reforms designed to make UnitedHealth a model of corporate responsibility and transparency. **At the time, the settlement reached was believed to be the largest settlement ever in a derivative case.** See "UnitedHealth's Former Chief to Repay \$600 Million," *Bloomberg.com*, December 6, 2007 ("the settlement . . . would be the largest ever in a 'derivative' suit . . . according to data compiled by Bloomberg."). Also, in *In re: Wireless Facilities Inc. Derivative Litig.*, No. 04-CV-01663 (S.D. Cal.) Faruqi & Faruqi, LLP, in a derivative action alleging improper backdating of stock options and breaches of fiduciary duties by certain officer and directors of the company, caused a settlement of the forfeiture of certain defendants' stock options as well extensive and wide ranging corporate governance reforms.

As co-lead counsel in *Weissman v. John, et al.*, Cause No. 2007-31254 (Tex. Harris County 2008) Faruqi & Faruqi, LLP, diligently litigated a shareholder derivative action on behalf of Key Energy Services, Inc. for more than three years and caused the company to adopt a multitude of corporate governance reforms which far exceeded listing and regulatory requirements. Such reforms included, among other things, the appointment of a new senior management team, the realignment of personnel, the institution of training sessions on internal control processes and activities, and the addition of 14 new accountants at the company with experience in public accounting, financial reporting, tax accounting, and SOX compliance.

Faruqi & Faruqi, LLP, along with their co-counsel, successfully defended against the Wellcare Health Plans, Inc.'s motion to dismiss the action in *Rosky, et al. v. Farka*, Case No. 8:07-cv-1952-T-26 MAP (M.D. Fla.). After prosecuting the action for almost 2 years, the Wellcare Board of Directors established a one-person Special Litigation Committee, implemented extensive corporate governance changes sought by virtue of the action and agreed to retain the restricted legend on stock held by certain former officers. Ultimately, the Special Litigation Committee took over the derivative claims. Also, as co-lead counsel in *In re Tenet Healthcare Corp. Derivative Litig.*, Lead Case No. 01098905 (Cal. Sup. Ct. 2002), Faruqi & Faruqi, LLP achieved a \$51.5 million benefit to the corporation in derivative litigation.

Current pending shareholder derivative lawsuits include; *In re The Goldman Sachs Group, Inc. Derivative Litig.*, Index No. 650318/2010 (Sup. Ct. N.Y. Cty.); *In re E\*Trade Financial Corporation Derivative Litig.*, Index No. 07-603736 (Sup. Ct. N.Y. Cty.); *In re Ambac Financial Group, Inc. S'holder Derivative Litig.*, Index No. 650050/2008E (Sup. Ct. N.Y. Cty.); *Michelson v. Solomon, et al. (In re Forest Laboratories, Inc. Derivative Litig.)*, C.A. No. 06-4774-CV (2d Cir.); *The Booth Family Trust, et al. v. Jeffries, et al. (In re Abercrombie & Fitch Co. Derivative Litig.)* No. 09-3443 (6th Cir.); *Schwartz v. Jung, et al. (Avon Products, Inc. Derivative Litig.)*, Index No. 651304/2010 (Sup. Ct. N.Y. Cty.); *Smukler v. Chamey, et al. (American Apparel, Inc. Derivative Litig.)*, Case No. 10 CV 7518 (C.D. Cal.); *Holt v.*

## **FARUQI & FARUQI, LLP**

*Golden, et al. (Smith & Wesson Holding Corp., Derivative Litig.)*, Case No. A-10-624614-C (Dist. Ct. Nev., Clark Cty.).

### **SHAREHOLDER MERGER AND TRANSACTIONAL LITIGATION**

Faruqi & Faruqi, LLP places special emphasis on prosecuting shareholder class actions brought nationwide against officers, directors and other parties responsible for corporate wrongdoing. Most of these cases are based upon state statutory or common law principles involving fiduciary duties owed to investors by corporate insiders.

Faruqi & Faruqi, LLP has obtained significant monetary and therapeutic recoveries, including millions of dollars in increased merger consideration for public shareholders; additional disclosure of significant material information so that shareholders can intelligently gauge the fairness of the terms of proposed transactions and other types of therapeutic relief designed to increase competitive bids and protect shareholder value.

Recently, as sole class counsel for plaintiffs in *Kajaria v. Cohen*, No. 1:10-CV-03141 (N.D. Ga., Atlanta Div.), Faruqi & Faruqi, LLP, succeeded in having the district court order Bluelinx Holdings Inc., the target company in a tender offer, to issue additional material disclosures to its recommendation statement to shareholders before the expiration of the tender offer. In *In re Bausch & Lomb Inc. Buyout Litig.*, Index No. 07/6384 (N.Y. Supr. Ct., Monroe Cty. 2008) Faruqi & Faruqi, LLP, as co-lead counsel, caused Bausch & Lomb Inc. to disclose to shareholders critical material information concerning its merger with Warburg Pincus LLC and in *Rice v. Lafarge North America, Inc., et al.*, No. 268974-V (Montgomery Cty., Md. Circuit Ct.), Faruqi & Faruqi, LLP, as co-lead counsel represented the public shareholders of Lafarge North America ("LNA") in challenging the buyout of LNA by its French parent, Lafarge S.A., at \$75.00 per share. After discovery and intensive injunction motions practice, the price per share was increased from \$75.00 to \$85.50 per share, or a total benefit to the public shareholders of \$388 million. The Lafarge court gave Class counsel, including Faruqi & Faruqi, LLP, shared credit with a special committee appointed by the Board for a significant portion of the price increase.

Also, in *In re: Hearst-Argyle Shareholder Litig.*, Lead Case No. 09-Civ-600926 (N.Y. Sup. Ct.) as co-lead counsel for plaintiffs, Faruqi & Faruqi, LLP litigated, in coordination with Hearst-Argyle's special committee, an increase of over 12.5%, or \$8,740,648, from the initial transaction value offered for Hearst-Argyle Television Inc.'s stock by its parent company, Hearst Corporation. Faruqi & Faruqi, LLP, in *In re Alfa Corp. Shareholder Litig.*, Case No. 03-CV-2007-900485.00 (Montgomery Cty, Ala. Cir. Ct.) was instrumental, along with the Company's special committee, in securing an increased share price for Alfa Corporation shareholders of \$22.00 from the originally-proposed \$17.60 per share offer, which represented over a \$160 million benefit to class members, and obtained additional proxy disclosures to

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ensure that Alfa shareholders were fully-informed before making their decision to vote in favor of the merger, or seek appraisal.

In *In re Fox Entertainment Group, Inc. S'holders Litig.*, Consolidated C.A. No. 1033-N (Del. Ch. 2005), Faruqi & Faruqi, LLP, as co-lead counsel, and in coordination with Fox Entertainment Group's special committee, created an increased offer price from the original proposal to shareholders, which represented an increased benefit to Fox Entertainment Group, Inc. shareholders of \$450 million. Also, in *In re Howmet Int'l S'holder Litig.*, Consolidated C.A. No. 17575 (Del. Ch. 1999) Faruqi & Faruqi, LLP, in coordination with Howmet's special committee, successfully obtained an increased benefit to class members of \$61.5 million dollars).

In *Brickell Partners v. Emerging Commns., Inc.*, Civil No. 16415 (Del. Ch. 1998) Faruqi & Faruqi, LLP, in its monitoring role as Class counsel achieved a post-trial settlement on behalf of the Class of \$5,596,037.40. After being consolidated with an appraisal hearing, the action was litigated vigorously for over four years, including a six week trial, where Faruqi & Faruqi, LLP in a secondary, monitoring role, represented the Class' interests with primary trial counsel - counsel for the hedge fund Greenlight Capital L.P. After trial the Court returned a verdict in favor of plaintiff. The case established new law and new standards for determining the fiduciary duties of corporate directors, especially directors that have specialized backgrounds (such as, accountants, lawyers, financial experts, etc.). The decision is now reported as *In re Emerging Commns., Inc. S'holders Litig.*, No. 16415, 2004 Del. Ch. LEXIS 70 (Del. Ch., May 3, 2004).

### **WAGE AND HOUR LITIGATION**

Faruqi & Faruqi, LLP represents current and former employees whose employers have failed to comply with state and/or federal laws governing minimum wage, hours worked, overtime, meal and rest breaks, and unreimbursed business expenses. In particular, the firm focuses on claims against companies for (i) failing to properly classify their employees for purposes of paying them proper overtime pay, or (ii) requiring employees to work "off-the-clock," and not paying them for all of their actual hours worked.

Recently, Faruqi & Faruqi, along with its co-counsel, won a groundbreaking decision for employees seeking to prosecute wage and hour claims on a collective basis in *Symczyk v. Genesis Healthcare Corp. et al.*, No. 10-3178 (3d Cir. 2011). In *Symczyk*, the Third Circuit reversed the district court's ruling that an offer of judgment mooted a named plaintiff's claim in an action asserting wage and hour violations of the Fair Labor Standards Act of 1938 ("FLSA"). Writing for the Circuit Court, U.S. Circuit Judge Anthony Scirica held, "[d]epriving the parties and the court of a reasonable opportunity to deliberate on the merits of collective action 'conditional certification' frustrates the objectives served by [the FLSA]." The Circuit Court then established that "when an FLSA plaintiff moves for "certification" of a

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collective action, the appropriate course ... is for the district court to relate the motion back to the filing of the initial complaint." In so holding, the Third Circuit held that an FLSA plaintiff enjoys the same procedural protections as a traditional Rule 23 class action plaintiff. Notably, the Third Circuit also affirmed the two-step process used for granting certification in FLSA cases. Consequently, this watershed decision will likely be widely cited in subsequent wage and hour decisions.

In prosecuting claims on behalf of aggrieved employees, Faruqi & Faruqi has successfully defeated summary judgment motions and won numerous collective certification motions. In the course of litigating these claims, the firm has been a pioneer in developing the growing area of wage and hour law. For instance, in *Creely, et al. v. HCR ManorCare, Inc.*, C.A. No. 3:09-cv-02879 (N.D. Oh), Faruqi & Faruqi, along with its co-counsel, was one of the first decisions to reject the application of the Supreme Court's analysis set forth in *Wal-Mart Stores, Inc. v. Dukes et al.*, 131 S. Ct. 2541 (2011) regarding Fed. R. Civ. P. 23 to the certification process of FLSA collective actions. The *Creely* decision, like the Third Circuit's *Genesis* decision, will invariably be relied upon by courts and plaintiffs in future wage and hour actions.

Currently, the firm has a number of wage and hour cases pending across the country including: *Quilloin v. Tenet Healthsystem Philadelphia, Inc., et al.*, No. 2:09-cv-5781 (E.D. Pa.); *Symczyk v. Genesis Healthcare Corp. and Eldercare Resources Corp.*, No. 2:09-cv-5782 (E.D. Pa.); *Creely, et al. v. HCR ManorCare, Inc.*, C.A. No. 3:09-cv-02879 (N.D. Oh); *Rogers v. HCA Health Services of Tennessee, Inc.*, No. 3:09-cv-01173 (M.D. Tenn.); *Cook v. St. John Health*, No. 2:10-cv-10016 (E.D. Mich.); *Bergman v. Kindred HealthCare, Inc.*, No. 2:10-cv-00191 (N.D. Ill.); *Camilotos v. Resurrection Healthcare*, No. 1:10-cv-00366 (N. D. Ill.); *DeMarco v. Northwestern Memorial Healthcare*, No. 1:10-cv-00397 (N. D. Ill.); and *Anish v. National Securities Corp.*, No. 9:10-cv-80330 (S.D. Fl.).

Some of the firm's notable recoveries include *Bazzini v. Club Fit Management, Inc.*, C.A. No. 08-cv-4530 (S.D.N.Y. 2008), wherein the firm settled a FLSA collective action lawsuit on behalf of tennis professionals, fitness instructors and other health club employees on very favorable terms. Similarly, in *Garcia, et al., v. Lowe's Home Center, Inc., et al.*, C.A. No. GIC 841120 (Cal. Sup. Ct. 2008), Faruqi & Faruqi, LLP, served as co-lead counsel and recovered \$1.6 million on behalf of delivery workers who were unlawfully treated as independent contractors and not paid appropriate overtime wages or benefits. Likewise, in *Lucero v. Frederick's of Hollywood, Inc.*, 1:04-cv-012097 (Cal. Sup. Ct.), the firm helped recover \$950,000 to help compensate class members for various wage and hour violations.

## **ATTORNEYS**

**NADEEM FARUQI**

## FARUQI & FARUQI, LLP

Mr. Faruqi is Co-Founder and Managing Partner of the firm. Mr. Faruqi oversees all aspects of the firm's practice areas. Mr. Faruqi has acted as sole lead or co-lead counsel in many notable class or derivative action cases, such as: *In re Olsten Corp. Secs. Litig.*, C.A. No. 97-CV-5056 (E.D.N.Y.) (recovered \$25 million dollars for class members); *In re PurchasePro, Inc., Secs. Litig.*, Master File No. CV-S-01-0483 (D. Nev. 2001) (\$24.2 million dollars recovery on behalf of the class in securities fraud action); *In re Avatex Corp. S'holders Litig.*, C.A. No. 16334-NC (Del. Ch. 1999) (established certain new standards for preferred shareholders rights); *Dennis v. Pronet, Inc.*, C.A. No. 96-06509 (Tex. Dist. Ct.) (recovered over \$15 million dollars on behalf of shareholders); *In re Tellium, Inc. Secs. Litig.*, C.A. No. 02-CV-5878 (D.N.J.) (class action settlement of \$5.5 million); *In re Tenet Healthcare Corp. Derivative Litig.*, Lead Case No. 01098905 (Cal. Sup. Ct. 2002) (achieved a \$51.5 million benefit to the corporation in derivative litigation).

Upon graduation from law school, Mr. Faruqi was associated with a large corporate legal department in New York. In 1988, he became associated with Kaufman Malchman Kirby & Squire, specializing in shareholder litigation, and in 1992, became a member of that firm. While at Kaufman Malchman Kirby & Squire, Mr. Faruqi served as one of the trial counsel for plaintiff in *Gerber v. Computer Assocs. Int'l, Inc.*, 91-CV-3610 (E.D.N.Y. 1991). Mr. Faruqi actively participated in cases such as: *Colaprico v. Sun Microsystems*, No. C-90-20710 (N.D. Cal. 1993) (recovery in excess of \$5 million on behalf of the shareholder class); *In re Jackpot Secs. Enters., Inc. Secs. Litig.*, CV-S-89-805 (D. Nev. 1993) (recovery in excess of \$3 million on behalf of the shareholder class); *In re Int'l Tech. Corp. Secs. Litig.*, CV 88-440 (C.D. Cal. 1993) (recovery in excess of \$13 million on behalf of the shareholder class); and *In re Triangle Inds., Inc. S'holders Litig.*, C.A. No. 10466 (Del. Ch. 1990) (recovery in excess of \$70 million).

Mr. Faruqi earned his Bachelor of Science Degree from McGill University, Canada (B.Sc. 1981), his Master of Business Administration from the Schulich School of Business, York University, Canada (MBA 1984) and his law degree from New York Law School (J.D., *cum laude*, 1987). Mr. Faruqi was Executive Editor of New York Law School's Journal of International and Comparative Law. He is the author of "Letters of Credit: Doubts As To Their Continued Usefulness," Journal of International and Comparative Law, 1988. He was awarded the Professor Ernst C. Stiefel Award for Excellence in Comparative, Common and Civil Law by New York Law School in 1987.

### LUBNA M. FARUQI

Ms. Faruqi is Co-Founder of Faruqi & Faruqi, LLP. Ms. Faruqi is involved in all aspects of the firm's practice. Ms. Faruqi has actively participated in numerous cases in federal and state courts which have resulted in significant recoveries for shareholders.

## **FARUQI & FARUQI, LLP**

Ms. Faruqi was involved in litigating the successful recovery of \$25 million to class members in *In re Olsten Corp. Secs. Litig.*, C.A. No. 97-CV-5056 (E.D.N.Y.). She helped to establish certain new standards for preferred shareholders in Delaware in *In re Avatex Corp. S'holders Litig.*, C.A. No. 16334-NC (Del. Ch. 1999). Ms. Faruqi was also lead attorney in *In re Mitcham Indus., Inc. Secs. Litig.*, Master File No. H-98-1244 (S.D. Tex. 1998), where she successfully recovered \$3 million on behalf of class members despite the fact that the corporate defendant was on the verge of declaring bankruptcy.

Upon graduation from law school, Ms. Faruqi worked with the Department of Consumer and Corporate Affairs, Bureau of Anti-Trust, the Federal Government of Canada. In 1987, Ms. Faruqi became associated with Kaufman Malchman Kirby & Squire, specializing in shareholder litigation, where she actively participated in cases such as: *In re Triangle Inds., Inc. S'holders Litig.*, C.A. No. 10466 (Del. Ch. 1990) (recovery in excess of \$70 million); *Kantor v. Zondervan Corp.*, C.A. No. 88 C5425 (W.D. Mich. 1989) (recovery of \$3.75 million on behalf of shareholders); and *In re A.L. Williams Corp. S'holders Litig.*, C.A. No. 10881 (Del. Ch. 1990) (recovery in excess of \$11 million on behalf of shareholders).

Ms. Faruqi graduated from McGill University Law School at the age of twenty-one with two law degrees: Bachelor of Civil Law (B.C.L.) (1980) and a Bachelor of Common Law (L.L.B.) (1981).

### **EMILY C. KOMLOSSY**

Ms. Komlossy is Managing Partner of Faruqi & Faruqi, LLP's Florida office. Ms. Komlossy has devoted her entire legal career to the practice of complex class action securities fraud and shareholder litigation. With a wealth of experience in this field, Ms. Komlossy has also provided portfolio monitoring services to institutional and hedge fund clients to enable them to identify and determine an appropriate course of action when potential misconduct affects the client's portfolio holdings.

Ms. Komlossy has represented clients in a number of high profile actions. Recently, she successfully represented the Genesee County Employees' Retirement System in a class action securities fraud case against Transaction System Architects which claims included very complex accounting principles. This action ultimately resulted in a \$24.5 million settlement on behalf of the class.

In addition, a substantial portion of Ms. Komlossy's litigation has been in the shareholder merger litigation area. She has litigated cases for her shareholder clients against companies such as Daniel Industries, Inc., Pennaco Corp. and AMC Entertainment, Inc.

Ms. Komlossy's skills have been noted favorably by the courts. In *Yud v. Saf T Lok*, 98 CV 8507 (S.D. Fla.), a case in which she played a major role, Magistrate Judge Linnea R. Johnson noted "the attorneys have done an outstanding amount of work in a short period of time to bring this class action to resolution in a successful fashion."

Ms. Komlossy earned a B.A. from the State University of New York at Oneonta in 1983 and a J.D. from New York Law School in 1989. She is admitted to practice in New York and Florida and the United



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States District Courts for the Southern District of New York, Southern District of Florida and Western District of Michigan.

### **JACOB A. GOLDBERG**

Mr. Goldberg is Managing Partner of Faruqi & Faruqi, LLP's Pennsylvania office. Mr. Goldberg joined Faruqi & Faruqi, LLP in 2006 and has concentrated his legal career in all facets of complex commercial litigation in the federal and state courts.

Prior to joining the firm as a partner, Mr. Goldberg was a partner at Berger & Montague, P.C. and Schiffrin & Barroway, LLP. In 2004, he formed his own firm where he focused on commercial disputes, including theft of trade secrets, theft of business plan and breaches of contract while continuing to litigate cases involving violations of fiduciary duties, consumer protection laws, and the federal securities laws.

Among Mr. Goldberg's most notable cases are *In Re New America High Income Fund Secs. Litig.* (D. Mass 1990) (alleged false and misleading prospectus for junk bond fund; \$2.5 million settlement); *Rosenthal v. Dean Witter Reynolds, Inc.*, (Colo. Dist. Ct. 18th Jud. Dist. 1991); *In re IKON Office Solutions Secs. Litig.*, No. 98-04286 (E.D. P.A. 1998) (alleged complex accounting fraud involving manipulation of reserves; \$111 million settlement); *In re Creditrust Corp. Secs. Litig.* (D. Md. 2000) (alleged complex accounting fraud, relating to predicting financial results for securitized debt and adequately assessing gains on sales); *In re Scholastic, Inc. Secs. Litig.* (S.D. N.Y 1997) (alleged false financial projections and inadequate reserves; \$7 million settlement); *Cohen v. Mirage Resorts, Inc.*, 119 Nev. Adv. Op. No. 1 (Feb. 7, 2003) (Nevada Supreme Court reversed dismissal of shareholder action related to fair value of shares in a freeze out merger); *In re QuadraMed, Inc. Secs. Litig.*, No. 02-04770 (N.D. Cal. 2002) (alleged manipulation of revenue and new management and auditor cover-up; \$5.25 million settlement); and *Studer v. Heng Fung Holdings* (D. Colo. 2002) (derivative lawsuit, alleging the stripping of company assets to a related entity; approximately \$1.75 million settlement).

Mr. Goldberg graduated from Columbia University (B.A. 1988) and Temple University School of Law (J.D., *cum laude*, 1992) and practices from the Philadelphia area. He is admitted before all courts in the Commonwealth of Pennsylvania and to the United States Supreme Court, the United States Courts of Appeal for the Third and Fourth Circuits, and the United States District Courts for the Eastern District of Pennsylvania, Central District of Illinois, and District of Colorado. His admission to the Bar of the State of New York is pending. Mr. Goldberg is a dual citizen of the United States of America and the Republic of Ireland.

### **VAHN ALEXANDER**

Mr. Alexander is Managing Partner of Faruqi & Faruqi, LLP's California office. Mr. Alexander joined the firm in October 2007. Mr. Alexander's practice focuses on shareholder litigation and securities

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class actions in federal and state court. Mr. Alexander also litigates consumer fraud cases concerning unfair business practices and false and misleading advertising under California law. After graduating law school, Mr. Alexander joined the California office of a New York law firm which concentrated on securities class action litigation. After gaining extensive experience with that firm for over 10 years, Mr. Alexander left to start his own firm in 2004. Mr. Alexander is a member of the State Bar of California and is admitted to practice in the United States District Courts for the Central, Northern, Southern and Eastern Districts of California, as well as the Ninth Circuit Court of Appeals. He is also a member of Consumer Attorneys of California, as well as the American Bar Association and the Los Angeles County Bar Association.

Prior to joining the firm, Mr. Alexander has acted as sole lead or co-lead counsel in numerous cases which include the following: *In re Apria Healthcare Group Sec. Litig.*, Master File No. 797060 (Orange County Super. Ct.) (\$42 million settlement obtained for the class); *In re PurchasePro.com, Inc. Sec. Litig.*, Case No. CV-S-01-0483 (D. Nev.) (\$24.2 million settlement obtained for the class); *In re Lantronix, Inc. Sec. Litig.*, Case No. CV-02-3899 (C.D. Cal.) (\$15.175 million settlement obtained for the class); *In re California Microwave Sec. Litig.*, Master File No. C-95-4009-CW (N.D. Cal.) (\$14 million settlement obtained for the class); *In re Cybermedia Sec. Litig.*, Master File No. 98-1811 CBM (Ex) (C.D. Cal.) (\$10.6 million settlement obtained for the class); *In re Mesa Airlines Sec. Litig.*, Case No. 94-690 JC/WWD (D.N.M.) (\$8 million settlement obtained for the class); *In re Brightpoint Sec. Litig.*, Case No. IP 011796 C-T/K (S.D. Ind.) (\$5.25 million settlement obtained for the class); *In re Resource America Sec. Litig.*, Master File No. 98-CV-5446 (E.D. Pa.) (\$5.425 million settlement obtained for the class); and *In re Sumitomo Bank of California Sec. Litig.*, Master File No. 994002 (S.F. County Super. Ct.) (\$4.95 million settlement obtained for the class in an action for breach of fiduciary duties).

Mr. Alexander graduated from the University of California at Los Angeles (B.A. 1990), with honors, and received his law degree from Loyola Law School, Los Angeles (J.D. 1993), where he was a member of the Scott Moot Court Honor's Board (1993 - Jessup Team).

### ANTONIO VOZZOLO

Mr. Vozzolo is a partner in Faruqi & Faruqi, LLP's New York office and Chair of the firm's Securities Litigation Department. Mr. Vozzolo joined Faruqi & Faruqi, LLP in 1999 and became a partner of the firm in January, 2004. Mr. Vozzolo's practice focuses on representing individuals and institutional investors in complex matters involving federal and state securities laws, and fiduciary duties of corporate officers and directors (or corporate governance matters).

Mr. Vozzolo was part of the team responsible for prosecuting *In re PurchasePro, Inc., Secs. Litig.*, Master File No. CV-S-01-0483 (D. Nev. 2001), a case against the officers and directors of PurchasePro.com as well as AOL Time Warner, Inc., America On-Line, Inc., and Time Warner, Inc., which obtained an excellent result for the class, culminating in a \$24.2 million settlement.

## **FARUQI & FARUQI, LLP**

Mr. Vozzolo graduated, *cum laude*, from Fairleigh Dickinson University in 1992 with a Bachelor of Science (B.Sc.), where he was on the Dean's List, and with a Masters in Business Administration (M.B.A.) in 1995. He is a graduate of Brooklyn Law School (1998). Mr. Vozzolo served as an intern to the Honorable Ira Gammernan of the New York Supreme Court and the New York Stock Exchange while attending law school.

### **KENDALL S. ZYLSTRA**

Mr. Zylstra is a partner in Faruqi & Faruqi, LLP's Pennsylvania office and Chair of the firm's Antitrust Litigation Department. Mr. Zylstra joined Faruqi & Faruqi, LLP at the beginning of 2008, after many years litigating complex commercial and civil litigation in the complex class action arena.

Mr. Zylstra has spent the last several years focusing on antitrust class actions challenging practices such as unfair trade practices, national price-fixing claims, monopolies, and the delayed-generic entry pharmaceutical cases

Prior to joining the Firm, Mr. Zylstra represented victims of human radiation experiments from the Cold War Era. He was significantly responsible for litigating two mass actions, which settled for nearly \$5 million and played a significant role in winning a reversal of summary judgment in *Bibeau, et al. v. Pacific Northwest Research Foundation, et al.*, 188 F. 3d 1005 (9th Circ. 1999).

For over five years, Mr. Zylstra was the Head of the Antitrust Department at a notable plaintiff's class action litigation firm, and developed a portfolio of antitrust cases, including gasoline dealer-franchises suing large oil companies for unfair trade practices; representing medical device wholesalers and distributors asserting antitrust claims against monopolists; and representing two internet companies in a litigation asserting vertical price fixing claims against a giant retailer and its co-conspirator manufacturers.

Mr. Zylstra graduated from Calvin College in 1987 with a Bachelor of Arts and from Temple University School of Law (J.D. 1991) where he received the *Temple Law Alumni/ae Award* for Moot Court Excellence. Mr. Zylstra was an Assistant District Attorney in Philadelphia, PA between 1991-1996, where he gained extensive trial experience in the prosecution of hundreds of cases primarily involving cases of sexual assault.

### **ADAM R. GONNELLI**

Mr. Gonnelli is partner in Faruqi & Faruqi, LLP's New York office and Chair of the firm's Consumer Litigation Department. Mr. Gonnelli became associated with Faruqi & Faruqi, LLP, in 2002 and became a partner of the firm in 2004.

Since joining Faruqi & Faruqi, Mr. Gonnelli has concentrated his practice on transaction litigation and consumer class actions. Representative cases include *In re NutraQuest, Inc.*, No. 06-202 (D.N.J.)

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(consumer fraud case against national diet supplement company); *Wanzo v. Nextel Commc'ns, Inc.*, No. GIC 791626 (Cal. Sup. Ct.) (consumer case challenging change in "nights and weekends" plan); *Garcia v. Lowe's, Cos., Inc.*, No. 841120 (Cal. Super. Ct.) (case to recover overtime pay for delivery drivers); *Rice v. Lafarge North America*, No. 268974 (Md. Cir. Ct.) (merger case resulted in a benefit of \$388 million); and *In re Fox Entm't Group, Inc. S'holders Litig.*, No. 1033-N (Del. Ch. 2005) (benefit to shareholders of \$450 million).

Mr. Gonnelli received a B.A. from Rutgers University (Newark) in 1989 and a J.D. from Cornell Law School in 1997. At Rutgers University, Mr. Gonnelli lettered in football and fencing and served as Student Government President. Prior to attending law school, Mr. Gonnelli was a Financial Writer at the Federal Reserve Bank of New York, where he wrote educational materials on international trade and monetary policy. While attending Cornell Law School, Mr. Gonnelli served as Editor-in-Chief of the Cornell Journal of Law and Public Policy and was a member of the Atlantic Regional Championship moot court team in the Jessup International Law Moot Court Competition (1997).

### **BETH A. KELLER**

Ms. Keller is a partner in Faruqi & Faruqi, LLP's New York office and Chair of the firm's Shareholder Derivative Litigation Department. Ms. Keller joined Faruqi & Faruqi, LLP as an associate in 2003 and became a partner in 2008. Her practice focuses on shareholder derivative litigation and securities class actions in federal and state court.

Since joining Faruqi & Faruqi, Ms. Keller has been actively involved in numerous complex cases in which the firm, as sole or co-lead counsel, achieved substantial corporate governance enhancements and/or financial recoveries for the corporation and its shareholders, including *In re Tenet Healthcare Corp. Derivative Litig.*, Lead Case No. 01098905 (Cal. Sup. Ct. 2002); *In re Advanced Mktg. Srvs., Inc. Derivative Litig.*, No. CIC824845 (Cal. Super. Ct.); *In re Ligand Pharm. Inc. Derivative Litig.*, Lead Case No. GIC834255 (Cal. Super. Ct.); and *In re Novastar Fin., Inc. Derivative Litig.*, Lead Case No. 04-CV-212685 (Cir. Ct. Mo. 2004).

Ms. Keller graduated from Hobart & William Smith Colleges in 1999 with a Bachelors of Arts in Political Science and English and from the State University of New York at Buffalo Law School in 2002. Ms. Keller participated in the Desmond Moot Court Competition while at law school. She is a member of both the New York and New Jersey Bars and is admitted to practice in the United States District Courts for the Southern, Eastern and Western Districts of New York.

### **SHANE T. ROWLEY**

Mr. Rowley is a partner in Faruqi & Faruqi, LLP's New York office. During his tenure at Faruqi & Faruqi, LLP, Mr. Rowley has amassed extensive experience in complex litigation. For example, In

## **FARUQI & FARUQI, LLP**

*Brickell Partners v. Emerging Communications, Inc.*, Civil No. 16415 (Del. Ch. 1998) Faruqi & Faruqi, LLP, Mr. Rowley in his role as monitoring trial Class counsel achieved a post trial settlement on behalf of the Class of \$5,596,037.40.

Mr. Rowley has recovered hundreds of millions of dollars for shareholders of publicly traded companies. Mr. Rowley was successful, as co-lead counsel, in *Rice v. Lafarge North America*, No. 268974 (Md. Cir. Ct.), representing the public shareholders of Lafarge North America ("LNA") in challenging the buyout of LNA by its French parent, Lafarge S.A., at the original offer price of \$75 per share. Following discovery and extensive injunction motion practice by Mr. Rowley and his co-counsel, the price per share was increased from \$75 to \$85.50 per share, representing a total benefit to the public shareholders of \$388 million.

Mr. Rowley graduated from Trinity College, Dublin, Ireland in 1987 with a Bachelor of Common Law (LL.B.) degree and from the Honorable Society of Kings Inns, Dublin in 1989 with a Barrister at Law (B.L.) degree. Mr. Rowley is a citizen of the United States of America and Ireland and is admitted to practice in both countries. From 1991 to June 2000 Mr. Rowley was associated with the law firm of Wolf Haldenstein Adler Freeman & Herz LLP, where he concentrated in securities class actions and shareholder derivative litigation.

Mr. Rowley served as a panelist at the 2008 PLI program, Securities Litigation & Enforcement.

### **PETER KOHN**

Mr. Kohn is a partner in Faruqi & Faruqi, LLP's Pennsylvania office. Prior to joining the firm in January 2010, Mr. Kohn was a shareholder at Berger & Montague, P.C., where he prepared for trial several noteworthy lawsuits under the Sherman Act, including *In re Buspirone Patent & Antitrust Litigation*, MDL No. 1410 (S.D.N.Y.) (\$220M settlement), *In re Cardizem CD Antitrust Litigation*, No. 99-MD-1278 (E.D. Mich.) (\$110M settlement), *Meijer, Inc. v. Warner-Chilcott*, No. 05-2195 (D.D.C.) (\$22M settlement), *In re Relafen Antitrust Litigation*, No. 01-12239 (D. Mass.) (\$175M settlement), *In re Remeron Direct Purchaser Antitrust Litigation*, No. 03-cv-0085 (D.N.J.) (\$75M settlement), *In re Terazosin Hydrochloride Antitrust Litigation*, No. 99-MDL-1317 (S.D. Fla.) (\$72.5M settlement), and *In re Tricor Direct Purchaser Antitrust Litig.*, No. 05-340 (D. Del.) (\$250M settlement). The court appointed him as co-lead counsel for the plaintiffs in *In re Pennsylvania Title Ins. Antitrust Litig.*, No. 08cv1202 (E.D. Pa.) (pending action on behalf of direct purchasers of title insurance alleging illegal cartel pricing under § 1 of the Sherman Act).

A sampling of Mr. Kohn's reported cases in the antitrust arena includes *Delaware Valley Surgical Supply Inc. v. Johnson & Johnson*, 523 F.3d 1116 (9th Cir. 2008) (issue of direct purchaser standing under *Illinois Brick*); *Babyage.com, Inc. v. Toys "R" Us, Inc.*, 558 F. Supp.2d 575 (E.D. Pa. 2008) (denying defendants' motion to dismiss following the Supreme Court's decisions in *Twombly* and *Leegin*, and for

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the first time in the Third Circuit adopting the Merger Guidelines method of relevant market definition); *J.B.D.L. Corp. v. Wyeth-Ayerst Laboratories, Inc.*, 485 F.3d 880 (6th Cir. 2007) (affirming summary judgment in exclusionary contracting case); and *Babyage.com, Inc. v. Toys "R" Us, Inc.*, 458 F. Supp.2d 263 (E.D. Pa. 2006) (discoverability of surreptitiously recorded statements prior to deposition of declarant).

Mr. Kohn is a 1989 graduate of the University of Pennsylvania (B.A., English) and a 1992 *cum laude* graduate of Temple University Law School, where he was senior staff for the Temple Law Review and received awards for trial advocacy. Mr. Kohn was recognized as a "recommended" antitrust attorney in the Northeast in 2009 by the Legal 500 guide ([www.legal500.com](http://www.legal500.com)) and was chosen by his peers as a "SuperLawyer" in Pennsylvania in 2009, 2010, and 2011. In 2011, Mr. Kohn was selected as a Fellow in the Litigation Counsel of America, a trial lawyer honorary society composed of less than one-half of one percent of American lawyers. He is a member of the bars of the Supreme Court of Pennsylvania (1992-present), the United States District Court for the Eastern District of Pennsylvania (1995-present), the United States District Court for the Eastern District of Michigan (2010-present), the United States Court of Appeals for the Third Circuit (2000-present), the United States Court of Appeals for the Sixth Circuit (2005-present), and the United States Court of Appeals for the Federal Circuit (2011-present).

### JAMES P. McEVILLY, III

Mr. McEvilly is a partner in the Wilmington, Delaware office of Faruqi & Faruqi, LLP. Mr. McEvilly has extensive experience in securities class actions, corporate litigation and complex commercial litigation matters. Prior to joining Faruqi & Faruqi, Mr. McEvilly was an attorney in the Wilmington office of Grant & Eisenhofer for eight years practicing in the areas of securities class actions, corporate litigation, including corporate governance and merger litigation, and complex commercial litigation. At Grant & Eisenhofer he was actively involved in representing institutional investor lead plaintiffs in large complex securities class actions, including *In Re Tyco Securities Litigation* (\$3.2 billion class recovery) and *In Re Marsh & McLennan Companies, Inc. Securities Litigation* (\$400 million recovery). Mr. McEvilly has also been centrally involved in representing shareholders in corporate control litigation, including representing institutional investors in the *Caremark/CVS Merger Litigation* in the Court of Chancery of the State of Delaware (*LAMPERS v. Crawford*, C.A. No. 2365-N, Del. Ch. 2006). That landmark action forced CVS to increase the consideration offered to Caremark shareholders by a total of \$3.3 billion (\$7.50 per share) in cash, issue a series of additional material disclosures, and twice postpone the shareholder vote on the transaction to permit shareholders to digest the new disclosures. Mr. McEvilly was also involved as lead counsel in representing seatholders in the *New York Stock Exchange Merger Litigation* in the Supreme Court of the State of New York.

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Mr. McEvilly is admitted to the bar in Delaware, Pennsylvania and New Jersey. He received his undergraduate degree with a B.A. in political science from the University of Pennsylvania in 1991, and his juris doctorate from the University of Pennsylvania in 1994.

### **DAVID H. LEVENTHAL**

Mr. Leventhal is a partner in Faruqi & Faruqi, LLP's New York office. Mr. Leventhal joined Faruqi & Faruqi, LLP in 2003, and in 2006 became a partner in the firm. At Faruqi & Faruqi, LLP, Mr. Leventhal concentrates in securities, consumer, and antitrust class actions as well as derivative actions. Recently, as leader for sole class counsel for plaintiffs in *Kajaria v. Cohen*, No. 1:10-CV-03141 (N.D. Ga., Atlanta Div.), Mr. Leventhal succeeded in having the district court order Bluelinx Holdings Inc., the target company in a tender offer, to make additional material disclosures to its recommendation statement to shareholders before the expiration of the tender offer. Also, in *In re: Hearst-Argyle Shareholder Litig.*, Lead Case No. 09-Civ-600926 (N.Y. Sup. Ct.) Mr. Leventhal, part of co-lead counsel for plaintiffs, litigated, in coordination with Hearst-Argyle's special committee, an increase of over 12.5%, or \$8,740,648, from the initial transaction value offered for Hearst-Argyle Television Inc.'s stock by its parent company, Hearst Corporation.

Mr. Leventhal has actively and successfully reached settlements requiring companies to make significant and meaningful disclosures to shareholders in connection with going private transactions in actions such as *In re Direct General Corp. Derivative Litig.*, No. 05-0158 (M.D. Tenn.); *In re Vans Derivative Litig.*, No. BC309805 (Cal. Super. Ct.); *Gerber v. Freescale Semiconductor, Inc.*, No. D-GN-06-003501 (Tex. Dist. Ct. 98th Jud. Dist.); *Schuman v. CDW Corp.*, No. 07CH1416 (Ill. Cir. Ct.).

Mr. Leventhal was responsible for settlements in *In re: Wireless Facilities Inc. Derivative Litig.*, No. 04-CV-01663 (S.D. Cal.) (derivative action alleged improper backdating of stock options and breaches of fiduciary duties by certain officer and directors of the company settled for the forfeit of certain defendants' stock options as well extensive and wide ranging corporate governance reforms); *Schachter v. Toback*, No. 04 CH 09131 (Ill. Cir. Ct.) (derivative action alleging breach of fiduciary duties by certain officers and directors of the company, settled for modifications to composition of company's management and significant corporate governance reforms); *McCoon v. Wiederhorn*, No. 0407-6900 (Or. Cir. Ct.) (same); *Collet v. Moore*, No. 04CC07844 (Cal. Super. Ct.) (same); and *In re Nutraquest, Inc.*, No. 06-202 (D.N.J.) (alleged misrepresentations made in connection with sale of dietary supplement, settled for \$15 million). He is currently actively involved in litigating *In re Digital Music Antitrust Litig.*, MDL No. 1780 (S.D.N.Y.) (case pending against major record companies alleging antitrust violations in connection with the sale of digital music).

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Mr. Leventhal graduated from University of Michigan, Ann Arbor (A.B. 1990, *with distinction*) and from Fordham University School of Law (J.D. 1993). At Fordham, Mr. Leventhal was a member of the Fordham University International Law Journal and was on the Dean's List.

Mr. Leventhal served as a panelist at the 2009 PLI program, Securities Litigation & Enforcement.

### **MICHAEL J. HYNES**

Mr. Hynes is a partner in Faruqi & Faruqi, LLP's Pennsylvania office. Mr. Hynes joined Faruqi & Faruqi, LLP in November, 2010.

Prior to joining Faruqi & Faruqi, Mr. Hynes practiced law at Barroway Topaz Kessler Meltzer & Check, LLP, where he concentrated on shareholder derivative litigation. Mr. Hynes has served as lead or co-lead counsel in numerous high profile derivative actions relating to the "backdating" of stock options, including *In re Monster Worldwide, Inc. Derivative Litig.*, Index No. 06-108700 (New York County, NY); *In re Barnes & Noble, Inc. Derivative Litig.*, Index No. 06-602389 (New York County, NY); *In re Affiliated Computer Services, Inc. Derivative Litig.*, Cause No. 06-3403 (Dallas County, TX); and *In re Progress Software Corp. Derivative Litig.*, Civil A. No. 07-1937-BLS2 (Suffolk County, MA). Settlements of these, and similar actions, have resulted in significant monetary and corporate governance improvements for those companies and their public shareholders.

Mr. Hynes received his law degree from Temple University School of Law (1991), and is a graduate of Franklin and Marshall College (1987). Mr. Hynes is licensed to practice law in Pennsylvania, New Jersey and Montana, and has been admitted to practice in the United States Court of Appeals for the Ninth Circuit, and the United States District Courts for the Eastern and Middle Districts of Pennsylvania.

At Faruqi & Faruqi, LLP Mr. Hynes concentrates his practice in the areas of antitrust litigation and other complex litigation.

### **JUAN E. MONTEVERDE**

Mr. Monteverde is a partner in Faruqi & Faruqi, LLP's New York office. Mr. Monteverde has concentrated his legal career advocating shareholder rights and has appeared before Delaware Chancery Court on numerous occasions on behalf of shareholders in mergers and acquisitions class actions.

Before joining Faruqi & Faruqi, LLP, Mr. Monteverde gained extensive experience litigating over 50 mergers and acquisitions class actions from inception to conclusion. In particular, Mr. Monteverde acted as lead counsel or co-lead counsel for shareholders in *In re Bear Stearns Litigation*, Index No. 600780/08 (N.Y. Sup. Ct. 2008) (challenging acquisition of Bear Stearns for \$2.00 per share by JP Morgan, price increased to \$10.00 per share); *Sullivan v. Gorog, et al.*, Case Number BC398258 (Cal. Super. Ct. 2008) (prosecution of preliminary injunction seeking to enjoin tender offer by Best Buy Co. Inc.



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of Napster, Inc., resulting in post-tender offer settlement for the enlargement of appraisal rights of Napster shareholders); *In re Metavante Shareholder Litigation*, Consolidated Case No. 09-cv-5325 (Wis. Cir. Ct. 2009) (obtained significant supplemental disclosures to shareholders to enable an informed vote regarding the acquisition of Metavante by Fidelity); *In re Candela Corporation Shareholders Litigation*, Lead Civil Action No. 09-4092-BLS1 (Mass. Sup. Ct. 2009) (obtaining settlement of additional disclosures pertaining to the acquisition of Candela Corporation by Syneron Medical Ltd. and reformation of merger agreement to reduce termination fee by approximately 20%); and *Ubaney v. Rubinstein, et al.*, Civil Action No. 5459-VCL (Del. Ch. Ct. 2010) (obtaining supplemental disclosures in connection with the acquisition of Palm, Inc., including complete disclosure of Palm Inc.'s financial projections and free cash flows for 2010 through 2015).

At Faruqi & Faruqi, LLP, Mr. Monteverde continues to protect shareholder rights. He has acted as lead counsel or co-lead counsel in *In re Valeant Pharmaceuticals International Shareholders Litigation*, Consolidated Case No. 5644-VCS (Del. Ch. Ct. 2010) (negotiating significant supplemental disclosures regarding the acquisition of Valeant by Biovail); *In Re Cogent S'holder Litigation*, CA No. 5780-VCP (Del. Ch. Ct. 2010) (prosecuting preliminary injunction as well as continuing to litigate action zealously post-closing of merger) and *McGowan v. ICx Technologies, Inc., et al.*, C.A. No. 1:10CV1013 (E.D. Va. 2010) (achieving a class action settlement for additional disclosures pertaining to the tender offer of ICX Technologies, Inc. and extending the appraisal rights period for ICX Technologies shareholders by 20 days).

Mr. Monteverde has taught a New York CLE course regarding the financial and legal fundamentals underlying the valuation of mergers and acquisitions of publicly traded companies, *Valuations Issues in Mergers and Acquisitions*, October 20, 2010. Mr. Monteverde has also been a panel speaker in the session for "Don't Get Caught in the Past" at the 2011 Corporate Counsel CLE Seminar in Naples, Florida, where he discussed the current corporate governance developments in the mergers and acquisitions law practice and new trends in corporate governance law and practice at the start of the new decade.

Mr. Monteverde graduated from California State University of Northridge (B.S. Finance 2002) and St. Thomas University School of Law (J.D. *cum laude* 2006). While at St. Thomas University School of Law, Mr. Monteverde was a staff editor of law review and the president of the law school newspaper. Mr. Monteverde is admitted to practice in the courts of New York, the United States District Court for the Southern District of New York and the United States District Court for the Eastern District of Wisconsin.

**RICHARD W. GONNELLO**

## **FARUQI & FARUQI, LLP**

Richard W. Gonnello is a partner in the Firm's New York office. Mr. Gonnello focuses his practice on shareholder litigation and class actions. Prior to joining the firm, Mr. Gonnello was a partner at Entwistle & Cappucci LLP and an associate at Latham & Watkins LLP.

Mr. Gonnello has represented institutional and individual investors in obtaining substantial recoveries in numerous class actions, including *In re Royal Ahold Sec. Litig.*, No. 03-md-01539 (D. Md. 2003) (\$1.1 billion) and *In re Tremont Securities Law, State Law and Insurance Litigation*, No. 08-cv-11117 (S.D.N.Y. 2011) (\$100 million+). Mr. Gonnello has also obtained favorable recoveries for institutional investors pursuing direct securities fraud claims, including cases against *Qwest Communications International, Inc.* (\$175 million+) and *Tyco Int'l Ltd* (\$21 million).

Mr. Gonnello has co-authored the following articles: "'Staehr' Hikes Burden of Proof to Place Investor on Inquiry Notice," *New York Law Journal*, December 15, 2008; and "*Potential Securities Fraud: 'Storm Warnings' Clarified*," *New York Law Journal*, October 23, 2008.

Mr. Gonnello graduated *summa cum laude* from Rutgers University in 1995, where he was named Phi Beta Kappa. He received his law degree from UCLA School of Law in 1998, and was a member of the UCLA Journal of Environmental Law & Policy.

## **FARUQI & FARUQI, LLP**

### **JAN R. BARTELLI**

Jan R. Bartelli is a partner in the Firm's New York office. Prior to joining the firm, she was a partner at Garwin Gerstein & Fisher LLP, where she and her partners represented plaintiffs as lead or co-lead counsel in complex antitrust, securities, and employment discrimination class actions.

Representative cases include *In re: Marine Hose Antitrust Litigation* (S.D.Fla.); *In re Ciprofloxacin Antitrust Litigation* (E.D.N.Y.); *In re Terazosin Hydrochloride Antitrust Litigation* (S.D.Fla.), *In re Cardizem CD Antitrust Litigation* (E.D.Mich), and *Employees Committed for Justice v. Eastman Kodak Company* (W.D.N.Y.). At Faruqi & Faruqi, Ms. Bartelli will practice primarily in the area of antitrust law.

Ms. Bartelli received her law degree from Brooklyn Law School in 1997 and her undergraduate degree from Syracuse University. At Brooklyn Law School, she served as Articles Editor of the Brooklyn Law Review. She was a member of the Moot Court Society and a co-author of the Jerome Prince Evidence Competition.

She is a member of the Bar of New York, and is admitted to the District Courts for the Eastern, Southern and Western Districts of New York.

Prior to entering law school, Ms. Bartelli worked for several years as a newspaper reporter, primarily covering the courts in New Jersey.

### **NICHOLAS W. MOYNE**

Nicholas W. Moyne joined Faruqi & Faruqi, LLP as an associate in January, 2011.

Before joining Faruqi & Faruqi, LLP, Mr. Moyne served over ten years as the Principal Court Attorney to New York State Supreme Court Justice Marilyn G. Diamond.

Mr. Moyne received a B.A. from Oberlin College in 1993 and a J.D. from Brooklyn Law School in 1998. At Oberlin, Mr. Moyne majored in Government and in 1990 was awarded the Oberlin Forensic Scholarship for Outstanding Public Speaker. While attending Brooklyn Law School, Mr. Moyne served as Production Editor of the Brooklyn Journal of International Law. He is licensed to practice law in New York and is admitted to the United States District Courts for the Southern District of New York and the Eastern District of New York.

### **SANDRA G. SMITH**

Ms. Smith is an associate in Faruqi & Faruqi, LLP's Pennsylvania office. Ms. Smith joined Faruqi & Faruqi, LLP as an associate of the firm in December of 2009. She focuses her practice on areas of complex commercial litigation, including securities class action litigation in the context of mergers and acquisitions, shareholder derivative litigation, and antitrust matters.

Ms. Smith earned her Juris Doctorate degree from Temple University School of Law (1999), where she was Editor-in-Chief of the Temple Environmental Law & Technology Journal, and a Bachelor

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of Arts degree in History from St. Joseph's University. Ms. Smith is admitted to practice law in the Commonwealth of Pennsylvania and the United States District Court for the Eastern District of Pennsylvania.

### **STEPHEN E. CONNOLLY**

Mr. Connolly is an associate in Faruqi & Faruqi, LLP's Pennsylvania office. Mr. Connolly joined Faruqi & Faruqi, LLP as an associate of the firm in the beginning of 2008.

Mr. Connolly has focused his career as an attorney in the areas of complex commercial litigation, including class action securities fraud and antitrust litigation.

He received his law degree for the Villanova University School of Law (J.D. 2000) and received a Bachelor of Science from Penn State University (1997).

### **ROBERT J. GRAY**

Mr. Gray is an associate in Faruqi & Faruqi, LLP's Pennsylvania office. Mr. Gray joined Faruqi & Faruqi, LLP as an associate of the firm in April of 2011.

Prior to joining Faruqi & Faruqi, Mr. Gray practiced law at Barroway Topaz Kessler Meltzer & Check, LLP, where he concentrated his practice on complex litigation, including prosecuting class actions on behalf of consumers and employees nationwide. Mr. Gray has extensive experience in litigating wage and hour claims under the Federal Fair Labor Standards Act ("FLSA") and analogous state wage and hour laws. Mr. Gray has served as Class Counsel in numerous nationwide class actions on behalf of employees including: *In re Staples Inc. Wage and Hour Employment Practices Litigation*, No. 08-5746 (D. NJ) (settlement of federal and state wage claims up to \$42,000,000); *Curry v. J.P. Morgan Chase & Co., et al*, No. 07-06149 (N.D. IL) (settlement of federal and state wage claims up to \$5,000,000); *In re Janney Montgomery Scott Financial Consultant Litig.*, No. 06-cv-3202 (E.D. Pa.) (settlement of state and federal wage and hour claims for up to \$2.88 million.). Mr. Gray also has experience in prosecuting ERISA class actions, which involve claims against fiduciaries of a company's 401k plan for making imprudent investments.

Mr. Gray received his law degree from Temple University School of Law (2000), and is a graduate of La Salle University (1990) (B.S. Accounting / Finance). He is licensed to practice law in Pennsylvania and New Jersey, and has been admitted to practice before the United States District Court for the Eastern District of Pennsylvania. Prior to beginning his legal career, Mr. Gray worked as a forensic accountant for six years, conducting a variety of investigations for numerous governmental agencies and law firms. He received his CPA license in 1997.

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### **GERALD D. WELLS, III**

Mr. Wells is an associate in Faruqi & Faruqi, LLP's Pennsylvania office. Mr. Wells joined Faruqi & Faruqi, LLP as an associate of the firm in November of 2009.

Mr. Wells has substantial experience in prosecuting ERISA class actions, which involve claims against fiduciaries of a company's 401k plan for making imprudent investments. Mr. Wells has spoken at ERISA conferences on such topics as fiduciary liability and developments in ERISA jurisprudence. In addition, he has significant experience in litigating state and federal wage and hour claims against companies for failing to either (i) properly classify its employees or (ii) requiring employees to work "off-the-clock." Prior to joining the firm, he served as class counsel in such cases as *In re Bristol-Myers Squibb ERISA Litig.*, No. 02-cv-10129 (S.D.N.Y.) (settlement of ERISA claims of 40,000 class members for \$41.22 million plus structural plan changes valued at up to \$52 million); *Weaver v. Edward D. Jones & Co., L.P.*, Nos. 08-cv-529, 08-cv-540 (N.D. Ohio) (settlement of state and federal wage and hour claims for up to \$19 million); *In re Janney Montgomery Scott Financial Consultant Litig.*, No. 06-cv-3202 (E.D. Pa.) (settlement of state and federal wage and hour claims for up to \$2.88 million).

Mr. Wells is a graduate of both Temple University and Temple University School of Law (J.D. 2001). While in law school, he served as the Symposium Editor for the Environmental Law & Technology Journal. Mr. Wells is licensed to practice law in Pennsylvania, New Jersey, and California. In addition, Mr. Wells is admitted to practice before the United States Courts of Appeals for the Eighth, Ninth, and Eleventh Circuits, the United States District Courts for the Eastern District of Pennsylvania, Eastern District of Michigan, Northern, Southern, Central and Eastern Districts of California and the District Court of New Jersey.

### **CHRISTOPHER MARLBOROUGH**

Mr. Marlborough is an associate in Faruqi & Faruqi, LLP's New York office. Since joining Faruqi & Faruqi, LLP as an associate in January 2007, Mr. Marlborough has actively participated in such cases as: *Brocade Commc'ns Sys., Inc. Derivative Litig.*, No. C05-02233 (N.D. C.A.) (for damages to company as a result of backdating employee stock options) and *Thomas v. Global Vision Prods., Inc.*, No. RG03-091195 (Cal. Sup. Ct.) (consumer class action for the false and misleading advertising of the Avacor hair care system). Mr. Marlborough's practice focuses on shareholder litigation and securities class actions in federal and state court as well as consumer fraud cases concerning unfair business practices and false and misleading advertising.

Mr. Marlborough earned a Bachelor of Arts from the State University of New York at Purchase (*magna cum laude*, 1991) and a J.D. from Brooklyn Law School (*magna cum laude*, 2003). As an undergraduate, Mr. Marlborough was a President's Merit Scholar and on the Dean's List. In law school,

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he was a member of the Brooklyn Law School Journal of Law and Policy and the Jerome Prince Memorial Evidence Competition, Moot Court Writing Team. He was also an Edward V. Sparer Public Interest Fellow and a Judge Moses M. Weinstein Scholar. He authored "Evolution, Child Abuse and the Constitution" which was published in the spring 2003 edition of the Brooklyn Law School Journal of Law and Policy. Mr. Marlborough is admitted to practice in the courts of New York, New Jersey and Florida, as well as the United States District Courts for the Eastern and Southern Districts of New York and the Southern District of Florida.

### **RICHARD SCHWARTZ**

Richard Schwartz joined Faruqi & Faruqi, LLP in May 2006. Mr. Schwartz has been involved extensively in the firm's antitrust, merger, and derivative practice areas. Presently, Mr. Schwartz is a member of the teams prosecuting *Babyage.com, Inc., et al. v. Toys "R" Us, Inc.* and *In re Blood Reagents Antitrust Litig.*

Mr. Schwartz graduated from the University of Washington (B.A.) and the University of Chicago in 2004 (J.D.). While in law school, Mr. Schwartz served as a law clerk at the MacArthur Justice Center in Chicago and as a summer associate with the Chicago law firm Robinson Curley & Clayton P.C. Since law school, Mr. Schwartz has been a commercial litigator in New York and Pennsylvania.

Mr. Schwartz is a member of the bars of the State of New York (2005-present), Commonwealth of Pennsylvania (2010-present), the United States District Court for the Southern District of New York (2006-present), the United States District Court for the Eastern District of New York (2007-present), the United States District Court for the Northern District of New York (2008-present), the United States Court of Appeals for the Second Circuit (2010-present) and the United States District Court for the Eastern District of Pennsylvania (2011-present).

### **JAMIE R. MOGIL**

Ms. Mogil is an associate in Faruqi & Faruqi, LLP's New York office. Ms. Mogil joined Faruqi & Faruqi, LLP as an associate in February 2006, and has been involved in litigation encompassing each of the firm's practice areas.

Before attending law school, Ms. Mogil worked for the non-profit organization, Institute for Policy Studies in Washington, D.C. While in law school, Ms. Mogil was the recipient of the Public Interest Fellowship and on the Executive Board of the New York Law School Moot Court Association. Ms. Mogil competed in three national competitions, winning Second Best Brief and placing as a National Finalist and Semi-Finalist. Ms. Mogil was also the Chair of the Robert F. Wagner National Labor & Employment Law Moot Court Competition. Also while in law school Ms. Mogil worked for the Office of the New York

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State Attorney General in the Investment Protection Bureau, specifically investigating and prosecuting the mutual fund "market-timing" and "late-trading" cases.

Ms. Mogil graduated from The George Washington University in 2000 (B.A., Fine Arts and Art History, *cum laude*) and from New York Law School (J.D., 2005). She is licensed to practice law in New York and admitted to the United States District Courts for the Southern District of New York and the Eastern District of New York as well as the United States Court of Appeals for the Sixth Circuit.

### **BRIAN MOON**

Brian Moon is an associate in the New York office of Faruqi & Faruqi, LLP, and specializes in securities and shareholder class action litigation. Prior to joining Faruqi & Faruqi, LLP, Mr. Moon was an associate at Shearman & Sterling LLP and then Park & Jensen LLP, where his practice focused on securities litigation, regulatory enforcement matters, and complex civil litigation.

Mr. Moon received his J.D. from New York University School of Law (2007), his B.A., *cum laude*, from Columbia University (2002), and his M.A. in philosophy from Columbia University (2004). Mr. Moon is admitted to practice in New York State and the United States District Court for the Southern District of New York.

### **FRANCIS P. McCONVILLE**

Mr. McConville is an associate in Faruqi & Faruqi, LLP's New York office. Mr. McConville concentrates his practice on complex civil litigation with a focus on securities and shareholder class action litigation. Prior to joining the firm, Mr. McConville was an associate at Entwistle & Capucci LLP.

Mr. McConville has represented institutional and individual investors in obtaining substantial recoveries in numerous class actions involving federal and state securities laws and fiduciary duties of corporate officials. Mr. McConville also counseled corporate clients in federal and state court in a wide range of commercial disputes.

Mr. McConville graduated from the University of Notre Dame (B.A., History and Political Science, 2005) and New York Law School (J.D., *magna cum laude*, 2008). While at New York Law School, Mr. McConville served as the Associate Managing Editor of the *New York Law School Law Review*. Mr. McConville is admitted to practice law in the State of New York.

### **CHRISTOPHER HAYES**

Christopher Hayes is an associate in Faruqi & Faruqi, LLP's Los Angeles office. Mr. Hayes joined the firm in July 2011 and concentrates his practice on complex civil litigation, focusing on securities and consumer class action litigation.

Prior to joining the firm, Mr. Hayes worked for the Financial Industry Regulatory Authority (FINRA), conducting investigations into insider trading activity by registered representatives, brokerage

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firms and corporate officers at public companies listed on the NYSE and NASDAQ. While in law school, Mr. Hayes worked in the Washington, D.C. office of the Enforcement Division of the United States Securities & Exchange Commission, assisting in investigating cases involving securities fraud, insider trading and violations of the Sarbanes-Oxley Act. He also worked in the San Diego office of the California Department of Corporations, carrying out investigations into violations of state securities laws. During the summer of 2009, Mr. Hayes served on the majority staff of Committee on Banking, Housing & Urban Affairs in the United States Senate, where he engaged in research on financial policy and regulation, assisting the staff in their drafting of the Dodd-Frank Wall Street Reform & Consumer Protection Act. During the summer of 2008, he served as a judicial extern in the chambers of the Honorable Erithe A. Smith in the Central District of California, United States Bankruptcy Court. Prior to attending law school, Mr. Hayes worked on the trading floor at a large financial institution in Boston, Massachusetts.

Mr. Hayes graduated from the University of Massachusetts, Amherst (B.A., Legal Studies & Political Science) and the University of San Diego School of Law (J.D. 2010). He also was a visiting student at Georgetown University Law Center in the spring of 2010, where he enrolled in courses in financial regulation and policy joint-listed in the LL.M in Securities Regulation. Mr. Hayes is licensed to practice law in California and is admitted to the United States District Courts for the Southern, Central, Eastern and Northern Districts, as well as the United States Court of Appeals for the Ninth Circuit. He is a member of the Los Angeles County Bar Association (LACBA), the Beverly Hills Bar Association (BHBA) and the Consumer Attorneys Association of Los Angeles (CAALA).

### **A. LUKE SMITH**

A. Luke Smith became associated part-time with Faruqi & Faruqi, LLP in May 2010 while studying for the bar exam and joined as a full-time associate in August of 2010. Since joining the firm, Mr. Smith has focused on complex antitrust class actions, primarily on behalf of drug purchasers who have been overcharged by branded pharmaceutical companies that unlawfully extend patent exclusivity to delay generic competition.

Mr. Smith worked as a law clerk at Berger & Montague, PC, where he assisted with matters encompassing a range complex litigation including antitrust class actions, mass tort, securities fraud and national data breach cases. Mr. Smith was also a student attorney at the Penn State Dickinson School of Law Family Law Clinic, as well as an intern for Judge Joseph A. Greenaway of the United States District Court for the District of New Jersey, the New Jersey Office of the Public Defender, and the Pennsylvania Attorney General, Bureau of Consumer Protection.

In August 2008, Mr. Smith transferred from the University of Pittsburgh School of Law to the Pennsylvania State University Dickinson School of Law where he earned his law degree in May 2010. As



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a law student, Mr. Smith was certified as a Miller Center Public Interest Advocate in recognition of his service to the indigent community and also competed in the American Constitution Society Constance Baker Motley National Moot Court Competition. He earned a degree in Business Management from Cheyney University of Pennsylvania in May 2007 (*summa cum laude*). Mr. Smith is a member of the Pennsylvania Bar, and has applied for membership to the New Jersey Bar.

### **STEVEN BENTSIANOV**

Steven Bentsianov is an associate in the New York office of Faruqi & Faruqi LLP and concentrates his practice in the area of securities class action litigation.

Mr. Bentsianov graduated from the State University of New York at Binghamton (B.A. in English, 2005) and from Brooklyn Law School (J.D., *magna cum laude*, 2011). While at Brooklyn Law School, Mr. Bentsianov was the Managing Editor of the Brooklyn Journal of Corporate, Financial and Commercial Law and was a Dean Merit Scholar. He also received the CALI Excellence Award in Legal Writing I and II, Banking Law and Corporate Finance.

Mr. Bentsianov gained further experience in law school through internships for U.S District Judge Brian Cogan in the U.S. District Court for the Eastern District of New York, the Federal Trade Commission, the Financial Industry Regulatory Authority, and as a summer associate for a securities class action firm.

Mr. Bentsianov has applied for admission to the New York and New Jersey Bars.

### **COURTNEY E. MACCARONE**

Courtney E. Maccarone is an associate in the New York office of Faruqi & Faruqi, LLP and focuses her practice on consumer class action litigation.

Ms. Maccarone graduated from New York University (B.A., *magna cum laude*, 2008) and Brooklyn Law School (J.D., *magna cum laude*, 2011). While at Brooklyn Law School, Ms. Maccarone was the Executive Symposium Editor of the Brooklyn Journal of International Law, and was a member of the Moot Court Honor Society. Her note, "Crossing Borders: A TRIPS-Like Treaty on Quarantines and Human Rights" was published in the Spring 2011 edition of the Brooklyn Journal of International Law. Ms. Maccarone also gained experience in law school as an intern to the Honorable Martin Glenn of the Southern District of New York Bankruptcy Court, a research assistant for Brooklyn Law School Professor of Law Emeritus Norman Poser, a widely respected expert in international and domestic securities regulation, and as a law clerk for a New York City-based class action firm.

Ms. Maccarone has applied for admission to the New York and New Jersey Bars.

## **FARUQI & FARUQI, LLP**

### **ALEXANDRA MARCHUK**

Alexandra Marchuk is an associate in the New York office of Faruqi & Faruqi, LLP. Ms. Marchuk specializes in securities and shareholder class action litigation with emphasize in mergers and acquisitions where she actively protects shareholder rights.

Ms. Marchuk earned her B.A., with highest honors, from Lehigh University (2008) and then received her J.D. from Vanderbilt University Law School (2011). While at Vanderbilt University Law School, Ms. Marchuk concentrated her law studies in Delaware Corporate Law and had the privilege to take courses taught by the illustrious Justice Randy J. Holland, Chancellor William B. Chandler and Chancellor Leo E. Strine.

Ms. Marchuk has applied for admission to the New York Bar.

### **SARAH A. WESTBY**

Sarah A. Westby is an associate in the New York office of Faruqi & Faruqi, LLP and concentrates her practice in the area of antitrust class action litigation. Ms. Westby graduated Phi Beta Kappa from the University of Delaware (B.A. in Psychology, *magna cum laude*, 2008)) and Brooklyn Law School (J.D., *cum laude*, 2011).

While at Brooklyn Law School, Ms. Westby was an Executive Editor of the Brooklyn Journal of International Law. Her note on comparative consumer class action law was selected as the winning submission in the 2010 Trandafir International Business Writing Competition and was published in the University of Iowa Journal of Transnational Law & Contemporary Problems. She also received awards in Trial Advocacy and International Economic Law. Ms. Westby gained experience during law school through internships for U.S. Magistrate Judge Ramon E. Reyes, Jr. in the U.S. District Court for the Eastern District of New York, the U.S. Department of Justice, Civil Rights Division, the New York City Law Department and as a law clerk for an antitrust and consumer class action firm.

Ms. Westby has applied for admission to the New York Bar.